

EXHIBIT 64

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PHILADELPHIA DIVISION

APRIL PLOEGER,

Case No.
2:22-CV-02389-JHS

Plaintiff,

v.

TRUSTEES OF THE UNIVERSITY
OF PENNSYLVANIA,

Defendants.

- - -

ZOOM DEPOSITION OF MARCUS RYAN MILLER

APRIL 7, 2025

- - -

Reported by:

Kim Simms Strnisa - Court Reporter
1424 Roosevelt Road
Pittsburgh, PA 15237
412.969-4506 - jeanne@strideaway.net

1 accommodations -- were there any changes to
2 that process from 2015 through 2020?

3 A. Not to my knowledge.

4 Q. Do you know whether there had been
5 any changes in the process since 2020?

6 A. No, I don't believe there's been any
7 changes to the process.

8 Q. So let's talk about, generally, the
9 process of obtaining accommodations.

10 A. What happened first?

11 A. What happens first? A student would
12 self-identify with Student Disability Services
13 as a person who has a disability or who may
14 need accommodations.

15 So, during the period we're
16 discussing, they would complete a
17 self-identification form -- a self-I.D. form,
18 and submit it to our office. The self-I.D.
19 form asks about the nature of the student's
20 disability or -- and/or medical condition, and
21 any accommodations they believed may address
22 any access barriers to their participation in
23 the educational activities at the University.

24 A. And then after that
25 self-identification form is received, the

1 student -- the student is instructed to
2 schedule an initial meeting with a disability
3 specialist at the Weingarten Center.

4 The disability specialist -- and the
5 student also has the opportunity before that
6 meeting, but also afterwards, or really at any
7 point, to submit any documentation that they
8 believe is relevant regarding their disability
9 or medical condition.

10 And then the disability specialist
11 engages in a -- what was -- what we call the
12 collaborative interview. So they talk to the
13 student about their -- the nature of their
14 disability or medical condition, their history
15 with that disability or medical condition, the
16 access barriers that they may have experienced
17 in the past, but also that they anticipate
18 experiencing or are currently experiencing at
19 Penn.

20 They discuss the student's history,
21 if -- if it exists, of accommodations in prior
22 educational settings, the impact of the
23 disability in those settings and the impact of
24 those accommodations. And then they may
25 discuss -- the disability specialist may have

1 additional questions pertaining to
2 documentation that the student submitted.

3 The disability specialist would then
4 -- so after that initial meeting, may meet
5 with a documentation review committee,
6 essentially, that was -- included other
7 disability specialists in the office.

8 So this wasn't for every
9 accommodation request, but maybe more complex
10 ones. They would discuss the documentation
11 provided, the student's medical condition or
12 disabilities, and any information that was
13 shared by the student in the collaborative
14 interview.

15 Then the disability specialist would
16 make a decision about the approval or denial
17 of accommodations and inform the student.

18 If the student is approved for
19 accommodations, they would -- this is where
20 the languages change a little bit. We
21 currently call it a semester request. I think
22 it was maybe a course roster, maybe, is how we
23 described it before. But the function is the
24 same.

25 So, if the student is approved for

1 accommodations, they may be -- they then have
2 to elect, if it's an academic accommodations,
3 if they want to apply those academic
4 accommodations to specific courses each
5 semester.

6 So usually this involves a follow-up
7 meeting at the beginning of a new semester
8 with a disability specialist. And the
9 student, you know, if they have multiple
10 accommodations approved, they decide which
11 accommodations to apply to which courses, and
12 notify the disability specialist.

13 And then the disability specialist
14 would then send out letters to the instructors
15 of those courses, notifying them of --
16 notifying the instructor of -- that this
17 student is in your course and is approved for
18 the following academic accommodations.

19 That letter is not including
20 information about the student's disability or
21 underlying medical condition.

22 And there's also language in that
23 letter stating that the student should speak
24 with the course instructor regarding these
25 accommodations so that the instructor can

1 support the implementation of the
2 accommodations.

3 And then there's also language
4 stating that if the course instructor has any
5 questions or concerns about applying these
6 accommodations in their course, they can
7 follow up with Disability Services to discuss
8 those questions or concerns.

9 And then if the student has testing
10 accommodations, faculty course instructors can
11 in some cases administer accommodated exams,
12 or they may elect to have the Weingarten
13 Center administer those exams.

14 And we work with the faculty to, you
15 know, obtain the -- each exam in a timely
16 manner provided to the student under the
17 appropriate accommodations -- conditions based
18 on their accommodations and the conditions of
19 the exam. And then we return the completed
20 exam to the professor following their
21 instructor -- their instructions.

22 Q. So, anything else regarding the
23 approval process?

24 A. Well, we describe it as an
25 interactive process. So, the disability

1 specialist may have additional questions upon
2 receipt of, you know, documentation. They
3 may reach out to the student with those
4 questions.

5 In some cases they will seek the
6 student's permission to communicate with a
7 medical provider, if necessary, for
8 clarification. Or they may -- it -- it may
9 be determined that the documentation is
10 insufficient in supporting certain
11 accommodations.

12 In that case, the accommodation may
13 not be denied. But the stud -- the -- the
14 disability specialist may reach out to the
15 student and say additional documentation is
16 needed and -- and answer any questions the
17 student may have about that process.

18 (Audio muted.)

19 THE WITNESS: We can't hear you now.

20 MS. GREENSPAN: Sorry. You were
21 muted for most of that question. Can you
22 repeat that, please?

23 BY MR. HARRIS:

24 Q. What is the process if an
25 accommodation is denied?

1 roster process is not about kind of
2 reapproving accommodation. It's just working
3 with the -- it's the student working with the
4 disability specialist to determine which
5 courses to apply their accommodations.

6 Some students don't, you know, have
7 -- you know, like our -- some students, you
8 know, obviously -- it's -- they self-identify.
9 So that means it's always up to a student
10 to -- you know, if they want to work with the
11 disability -- with Disability Services, you
12 know, and identify as a student with a
13 disability.

14 But if a student moves through the
15 accommodation approval process, it remains up
16 to the student if they want to use those
17 accommodations.

18 Because, you know, an implicit aspect
19 of that process is that if a student wants to
20 apply accommodation to a -- accommodation to a
21 specific course, then that instructor needs to
22 be notified of those accommodations.

23 And for many different reasons the
24 student may not want to identify -- you know,
25 to apply accommodations to a specific course,

1 may not want a professor to be aware of those
2 accommodations. So that's up to that -- that
3 student.

4 Q. So when a student gets -- let's take
5 the test-taking accommodation example.

6 A. Okay.

7 Q. In semester one, the student goes to
8 Disability Services, goes through the process,
9 the collaborative interview, the decision
10 tree, et cetera, SDS approves a test-taking
11 accommodation in the first semester. Then in
12 the second semester, obviously, the student's
13 going to be in some obviously different
14 classes, and the student doesn't need any of
15 the accommodations in the second semester, so
16 there's no interaction with SDS.

17 A. Yes.

18 Q. The third semester comes along and
19 the student wants to accommodate class one and
20 three out of five classes.

21 Does the student at that point have
22 to physically come back to Disabilities
23 Services to activate the accommodations for
24 class one and three?

25 MS. GREENSPAN: I'm just going to

1 place an objection to the form.

2 But you can answer.

3 THE WITNESS: So, during the -- from
4 2015 to 2020, the -- the process was that
5 students would come into the Weingarten Center
6 in person to complete that course roster in
7 the process and have a conversation with the
8 disability specialist.

9 So, again, they're not reapproving
10 their accommodation. But the student is
11 notifying Disability Services if they -- you
12 know, which courses they want to apply their
13 accommodations to. So that was an in-person
14 meeting.

15 BY MR. HARRIS:

16 Q. That being an in-person meeting, was
17 that something specifically required, or was
18 that just sort of how things happened?

19 A. I believe that was -- I would
20 describe it as a practice of Student
21 Disability Services, the idea being that they
22 wanted to -- you know, the disability
23 specialist, in addition to kind of completing
24 this procedure to -- you know, with the
25 semester request or course rostering, would

1 also be able to have a conversation with the
2 student to see how their academic progress is
3 going, if they have encountered any new
4 challenges since they last spoke with a
5 disability specialist, and to see if any
6 additional support could be provided.

7 Q. And so to the -- so when you say "a
8 practice," in some areas of the law that has,
9 like, a specific legal meaning.

10 So could you tell us what you mean
11 when you say that it was a practice of the
12 office?

13 A. Yeah. I guess I mean that I don't --
14 I don't know that it was written down as a
15 requirement, which I would think of as like a
16 policy, but that it was a way of administering
17 the business of -- you know, administering the
18 process that was followed by Disability
19 Services.

20 Q. To that end, were disability
21 specialists permitted to conduct this
22 follow-up interview by phone?

23 A. I -- I don't know if -- if they would
24 conduct that process by phone.

25 Q. And just to be super clear, is it

1 those documents and giving some of that
2 testimony here today?

3 A. Yes.

4 Q. And what she -- in that instance, in
5 2008, did Mr. Ploeger follow the process set
6 forth by SDS for requesting accommodations?

7 A. To my knowledge, she did. And since
8 the documentation reflects that she submitted
9 documentation related to her disability, she
10 had an initial meeting with Disability
11 Services staff.

12 And from what I could see, she was
13 approved for accommodations related to testing
14 and -- yeah. So, yes.

15 Q. Did she get those accommodations?

16 A. As far as I can tell from the
17 documentation, she did.

18 Q. Now, fast forward to some of the
19 documents and testimony from today about 2016.

20 When Ms. Ploeger refused to meet with
21 SDS without a lawyer or legal advocate
22 present, what happens to the interactive
23 process at that point?

24 A. So, the interactive process requires
25 interaction between Disability Services and

1 the student through meeting either to discuss
2 new documentation that's been submitted or the
3 current impact of underlying condition or
4 disability on the student's current semester
5 or their ability to access campus facilities.
6 And when this meeting doesn't occur, the
7 process cannot continue.

8 MS. GREENSPAN: Okay. Thank you. I
9 don't have any further questions right now.

10 MR. HARRIS: I have some follow-ups
11 based on that.

12 E X A M I N A T I O N

13 BY MR. HARRIS:

14 Q. You said you reasonably did what you
15 could to prepare for today's deposition.

16 What does the word "reasonably" mean
17 to you?

18 A. To me, it means based on the
19 documentation that is available to me, in
20 addition to any documentation that I could
21 obtain, and my knowledge of the context of
22 that documentation, and making sure that I
23 familiarized myself fully with those
24 materials to be able to speak about them
25 knowledgeably.

1 said that the understanding that somebody
2 couldn't have a lawyer at SDS was based on the
3 training that you received under Academic
4 Integrity and Code of Student Conduct,
5 correct?

6 A. And also my interpretation that the
7 accommodation approval process is not a legal
8 process. And if Disability Services has to
9 engage in a legal process, they would refer
10 that to the Office of General Counsel.

11 Q. Did anybody say, "Hey, Office of
12 General Counsel, April wants to have a lawyer
13 at her disability meeting"?

14 A. You're asking about a question
15 someone may have asked in 2016?

16 Q. Yes.

17 MS. GREENSPAN: I'm going to object
18 based on privilege.

19 But if you can answer, go ahead.

20 THE WITNESS: Yeah, I don't -- I'm
21 not able to answer that question.

22 BY MR. HARRIS:

23 Q. So, to be clear, if somebody wants
24 to bring a lawyer to their SDS meeting, SDS
25 would at that point reach out to General